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Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

Local Competition and Broadband Reporting

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CC Docket No. 99-301

COMMENTS OF MEDIAONE

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MEDIAONE GROUP, INC.

Susan M. Eid, Vice President, Federal Relations
Tina S. Pyle, Executive Director for Public Policy
Richard A. Karre, Senior Attorney
1919 Pennsylvania Avenue, N.W.
Suite 610
Washington, DC 20006
(202) 261-2000

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COMMENTS OF MEDIAONE

MediaOne Group, Inc. ("MediaOne") submits these comments in response to the Notice of Proposed Rulemaking on reporting requirements designed to help the Federal Communications Commission ("Commission") assess the state of local telephone competition and the deployment of advanced services.^{1/} MediaOne is the parent company of one of the largest cable television multiple system operators ("MSOs") in the United States.^{2/} MediaOne subsidiaries provide residential facilities-based competitive local telecommunications service and advanced data services in Atlanta, Georgia; Los Angeles, California; Pompano Beach and Jacksonville, Florida; several communities surrounding Boston, Massachusetts; Detroit, Michigan; and Richmond, Virginia. MediaOne also offers high-speed Internet access to residential customers in Minneapolis and St. Paul, Minnesota; Naples, Florida; Concord, New Hampshire; Salem, Massachusetts; and Cleveland, Ohio. The company plans to reach additional markets for both services in the near future. MediaOne is a leader in bringing broadband communications -- including voice, video, and data services -- to all segments of the residential market.

^{1/} Local Competition and Broadband Reporting, CC Docket No. 99-301, Notice of Proposed Rulemaking, FCC 99-283 (released October 22, 1999) ("NPRM").

^{2/} MediaOne expects to complete a merger with AT&T Corp. in the first part of 2000.

MediaOne commends the Commission for its desire to develop a better understanding of the pace and extent of competition in key segments of the communications industry. The reporting rules proposed in the NPRM, however, would create additional burdens and competitive concerns for new entrants in the markets for high-speed data and local telephony without producing significant improvements in the quality or timeliness of information available to policymakers. As an alternative, MediaOne proposes a uniform annual reporting requirement to be adopted jointly by the Commission and state regulators.

INTRODUCTION AND SUMMARY

MediaOne recognizes that the Commission needs timely and reliable information about the emergence of local telecommunications competition and deployment of advanced services in order to evaluate efforts to spur delivery of new capabilities to consumers. As the Commission notes, local competition and broadband deployment data can help the Commission gauge the nature and impact of existing rules and, where appropriate, reduce or eliminate regulation.^{3/}

MediaOne is not opposed to adoption of a mandatory data collection mechanism as long as the information requested is neither unduly burdensome to produce nor duplicative of other reporting obligations currently imposed by the Commission and the states. With the large volume of information available to the Commission from a variety of other sources, MediaOne questions whether the costs of the NPRM reporting proposal can be justified in relation to the incremental benefit provided by any patterns it might reveal.

The Commission should not surrender to the temptation to impose another requirement simply because it seems to be a relatively minor addition to the already daunting range of

^{3/} See NPRM at ¶ 2.

regulatory obligations imposed on communications companies by both state and federal authorities. Congress has directed the Commission to focus on ways to minimize regulation, not on creating new burdens. Each hour or dollar spent collecting and preparing information for submission to the Commission is an hour or dollar not spent deploying facilities and marketing services.

Consistent with the intent of Congress in the Telecommunications Act of 1996^{4/} the Commission should take care to ensure that its new data reporting scheme:

- reduces bureaucratic burdens by displacing as many existing reporting obligations as possible;
- limits disclosure to categories of information that communications companies can collect and organize with a minimum of difficulty; and
- does not require the release of competitively sensitive data.

Specifically, the Commission should work with the states to reach agreement on a uniform information reporting program. MediaOne suggests that competitive local exchange carriers (“CLECs”) could be required to submit annual reports disclosing, on a confidential basis, the number of switches they have deployed, the number of active trunks connecting those switches to other LECs, the number of working voice-grade loops deployed, and the number of customers actually served using those facilities in each state. In order to assess the progress of advanced services, all providers of high-speed data offerings could be directed to report on the number of end user customers for these offerings, again on a confidential basis with information broken down by state. Data should be made available to the public only after being aggregated either on a state-by-state or company-by-company level to avoid disclosing sensitive information

^{4/} Pub. L. No. 104-104, 110 Stat. 56 (“1996 Act”) § 202(c) (not codified in Communications Act).

that could harm competition. MediaOne's proposal would serve the goal of monitoring local competition and advanced services without disclosing sensitive information and without imposing onerous bureaucratic burdens on companies working to bring choice to consumers.

I. SEVERAL STATE AND FEDERAL MECHANISMS ARE IN PLACE TO MEASURE THE PROGRESS OF LOCAL TELEPHONE COMPETITION

Although the 1996 Act directs the Commission to encourage the development of local competition, the regulation of intrastate telecommunications services is still primarily a matter of state responsibility.^{5/} In light of the Commission's supporting role in promoting local competition -- and in order to minimize the regulatory burdens on a developing industry -- a new federal reporting program should not be adopted unless and until other reporting mandates are consolidated or eliminated.

MediaOne submits that much of the data collected under the NPRM rules would duplicate the efforts of state regulators. Similar but slightly different reporting obligations at the state and federal levels would be almost as burdensome as entirely separate data collection rules, because companies would be forced to repeat the process of gathering data and analyzing it in a new format to accommodate the Commission's specifications. Moreover, the advanced services data collected under the new rules may overlap with the Commission's planned follow-up to last year's inquiry into the state of broadband capabilities and deployment.^{6/}

^{5/} See NPRM at ¶ 6 (describing Commission's role in encouraging local competition and acknowledging that states retain primary responsibility for intrastate issues).

^{6/} See Inquiry Concerning the Deployment of Advanced Telecommunications Capability to all Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, CC Docket No. 98-146, Report, FCC 99-5 (released February 2, 1999) ("Advanced Services Report").

A. The States Collect a Wide Range of Information from LECs That Could Be Used To Guide Federal Local Competition Policy

The states currently impose a wide range of reporting requirements on both competitive and incumbent LECs. Taken together, the information-gathering efforts undertaken by the states produce a large amount of information that could be used by the Commission to guide its work in encouraging local competition.^{7/} A few examples include:

Florida. The Florida Public Service Commission recently issued its “1999 ALEC Data Request,” which sought the number of customers served by each competitive LEC broken down by local exchange area and by business versus residential customers, as well as information concerning the specific types of telecommunications services offered and whether these services are being offered via each carrier’s own facilities or through resale.

Massachusetts. Local exchange carriers in Massachusetts are required by statute to submit an “annual return” with financial and operational information.^{8/} Implementing regulations adopted by the Massachusetts Department of Telecommunications and Energy call for cost and revenue data and disclosure of the types and amount of telecommunications facilities deployed within the state (miles of cable, poles, plant under construction, and other types of facilities). Like the information collected by many states, the Massachusetts requirements are even more detailed than the NPRM proposal, and the Commission might well find that this type of data is highly useful in performing its own analyses of market developments.

^{7/} See NPRM at ¶ 14 (acknowledging comments in CC Docket No. 91-141 advocating Commission’s use of public information collected by states and other in lieu of new reporting rules).

^{8/} See M.G.L.c. 166 §§ 11 and 12 (1999).

Michigan. The Michigan Public Service Commission requires all LECs to file annual reports providing financial and operational data for the preceding year. These reports must include information on cash flow, investments in affiliated and unaffiliated companies, telecommunications plant in service, subscriber fee revenue, and other detailed financial data. LECs also must file reports documenting the number of their end user customers at the end of each year.^{9/}

Minnesota. Interexchange carriers and LECs operating in Minnesota are required to file annual reports with the Minnesota Department of Public Service (“MPSC”). Carriers must disclose revenues in several categories, including intrastate interexchange service (toll and private line), local dedicated service, local switched service, switched access service, and “other” services. Carriers also must report local access line counts for residences and business customers, PBX trunks, and dedicated service (in DS0 and analog, DS1, and DS3 and higher categories) and the specific local exchange areas where service is provided (with accompanying information on the locations where service is facilities-based). In addition, a statutory assessment that covers the expenses of regulatory agencies in Minnesota requires telecommunications carriers operating in the state to submit intrastate revenue information.^{10/}

New Hampshire. The New Hampshire Public Utilities Commission requires local exchange carriers to file annual reports listing the number of presubscribed access lines, intrastate toll revenues, miles of network infrastructure owned (with separate reporting categories

^{9/} See Letter from William J. Celio, Communications Director of Michigan Department of Consumer and Industry Services, to Timothy P. Collins, MediaOne Telecommunications of MI, Inc., April 30, 1998 (describing reporting requirements) at 1-2 (“Celio Letter”).

^{10/} See Minn. Stat. §§ 237.295 and 237.74 (1999).

for fiber and copper cable), the number and location of switches used to route traffic in the state, and other financial and operational data.

Virginia. The Virginia State Corporation Commission (“VSCC”) requires competitive LECs to file quarterly statements of revenues for all competitive telecommunications services, and the VSCC’s staff has requested quarterly reports on the number of access lines provided by each competitive LEC broken down by business and residential service categories and by local exchange area. Competitive LECs also must file monthly reports on the collection of Telecommunications Relay Service taxes, which are based on the number of switched access lines (or their equivalent) provided to customers. Every year, competitive LECs must file information on taxes owed on regulated revenue, including property tax reports on the book value of assets used to provide telephony services and a report on annual revenues in the state.

These examples illustrate the types of detailed information currently collected by the states that could be used to assess the status of competition in local markets across the country.^{11/} While not every state gathers every category of data included on the form that accompanies the NPRM, the breadth and depth of information available from state regulators is certainly more than adequate to assist the Commission in evaluating the emergence of competition in a wide variety of local telecommunications markets.

B. Information Collected by the Commission in Other Contexts Could Be Used To Develop Broadband Policy

The NPRM notes that the Commission intends to issue a Notice of Inquiry to update the record developed in 1998 for the Advanced Services Report, but indicates that the quarterly

^{11/} Most states permit telecommunications carriers and cable operators to file sensitive information under seal. See, e.g., Celio Letter at 1 (explaining procedure for requesting proprietary treatment of information submitted in reports).

information reporting requirements will be independent of the new advanced services investigation.^{12/} MediaOne sees no reason why annual surveys cannot achieve much the same results as a new reporting program without forcing communications companies to submit reports on local telephone competition and advanced services deployment every 90 days for each state where they operate.

In addition, although MediaOne does not object to mandatory reporting subject to reasonable limits, the Commission should keep in mind that it has used voluntary reporting with great success in similar contexts. For example, the Commission's annual report on video competition report provides a wealth of information about the market conditions facing cable operators, satellite distributors, and other video programming providers, and the data for the report is gathered through a purely voluntary process.^{13/} The need for compulsory reporting on local competition and broadband deployment is simply not clear.

II. INFORMATION REQUIREMENTS SHOULD BE MINIMIZED TO AVOID IMPOSING SIGNIFICANT BURDENS ON REPORTING COMPANIES

In the NPRM, the Commission says it wants to “reduce regulation wherever . . . [it] can,” and it asserts that “[g]athering data about the development of local competition will help ensure that . . . [it] can properly evaluate the nature and impact of our existing regulation and, where appropriate, reduce or eliminate regulation.”^{14/} The Commission's intention is commendable, but the NPRM fails to recognize that reporting requirements are themselves a form of regulation.

^{12/} See NPRM at ¶ 1.

^{13/} See, e.g., Annual Assessment of the Status of Competition in Markets for the Delivery of Video Programming, Fifth Annual Report, FCC 98-335 (released Dec. 23, 1998).

^{14/} NPRM at ¶ 2.

A. There Is No Assurance That the NPRM Proposal Will Result in Elimination of Duplicative Or Inconsistent Reporting Obligations Adopted by the States

The state-by-state examples provided in the previous section -- which include only the reporting requirement applicable to local telephony -- illustrate that CLECs face a daunting array of information disclosure obligations at the state level. CLECs regularly collect information for state regulators that is similar to the data that would be submitted under the NPRM rules, but a new federal reporting obligation would compel carriers to generate an additional set of records in a different format to accommodate the Commission's requirements.

The NPRM makes much of a resolution adopted by the National Association of Regulatory Utility Commissioners ("NARUC") in support of a federal mechanism to gather information on local competition and expresses the hope that adoption of its proposed reporting rules might lead the states to eliminate inconsistent requirements.^{15/} Unfortunately, the NARUC resolution does not bind any state to conform to the rules or filing format proposed in the NPRM, and many state-specific reporting requirements are imposed by statute, limiting the ability of state regulators to eliminate these rules. As a consequence, the Commission's proposal to adopt a new federal requirement is unlikely to displace existing reports required by state regulators.

B. A Single Data Collection Program Conducted in Consultation with the States Would Be Preferable to the NPRM Proposal

MediaOne is concerned that quarterly reports on developments in local broadband service markets would simply add a distracting and time-consuming disclosure procedure to current

^{15/} See NPRM at ¶¶ 13-15 ("reliable information is required if state and federal regulators are to fashion policies to carry out Congress' directive to encourage local competition and the widespread deployment of broadband services [A] properly designed federal program can complement state efforts and end up reducing the reporting burdens imposed, overall, on carriers").

regulatory obligations. At a minimum, before implementation of any uniform reporting requirement for local telephone service competition and advanced services deployment, the Commission should attempt to reach agreement with the states on a single data collection program with the express understanding that the new scheme will replace -- or at least avoid duplicating -- existing reporting requirements.

Unless and until the Commission obtains such a commitment from the states, any new information reporting requirements would require CLECs, cable operators, and other companies providing advanced services to expend substantial effort meeting disparate reporting obligations. New market entrants are hard-pressed for resources to compete, and they should not be asked to devote more time and money to complying with new rules that duplicate existing mechanisms used by regulators to gather information on the deployment of communications facilities.

Of course, MediaOne recognizes that the Commission needs access to information concerning the status of local competition and advanced services. In lieu of the rules contemplated by the NPRM, and consistent with MediaOne's previous suggestions on local competition data collection, CLECs could be required to submit annual reports including the number of switches they have deployed, the number of active trunks connecting those switches to other LECs, the number of working voice-grade loops deployed, and the number of customers actually served using those facilities on a state-by-state basis.¹⁶ In order to assess the progress of advanced services, all providers of broadband services could be directed to report on the number of end user customers for their high-speed offerings.

¹⁶ See Comments of MediaOne, CC Docket No. 91-141 (filed June 8, 1998).

C. Reporting Categories for Advanced Services Should Be Simplified And Broadened To Include All Offerings Faster than 56 kbps

The NPRM suggests that data collection should focus on “full broadband” services (offerings with data rates over 200 kbps in each direction), with the possibility of separate reporting categories for “one-way broadband” and lower bit-rate services.^{17/} MediaOne proposes that companies could be directed to report on the number of end-user customers capable of receiving data at speeds higher than 56 kbps -- the maximum rate possible with conventional telephone lines -- in either direction. Carriers should be invited to offer additional data showing actual or potential rates with greater specificity, but the Commission should not mandate a complex set of reporting categories. For purposes of assessing the spread of broadband services, the relevant question is how many consumers subscribe to offerings that offer downstream speeds in excess of traditional dial-up modem capabilities, not the precise number of lines used to obtain each grade of service.

III. FAILURE TO PROTECT CONFIDENTIAL INFORMATION COULD THREATEN LOCAL TELEPHONE COMPETITION AND DEPLOYMENT OF ADVANCED SERVICES

The NPRM contemplates a reporting regime where firms would be required to release sensitive information to the public about the status of their local telephone offerings and advanced services deployment efforts.^{18/} MediaOne believes that if the Commission adopts new reporting requirements, it must provide some form of protection for data submitted or risk facilitating anticompetitive tactics by incumbent local exchange carriers (“ILECs”) and others.

^{17/} See NPRM at ¶ 40.

^{18/} See NPRM at ¶¶ 74-76.

In some states, disclosure of “top-line” numbers would give a carrier’s competitors valuable information about the carrier’s strategy and progress in a specific local market. In Virginia, for example, MediaOne offers broadband services only in Richmond. If MediaOne were required to report publicly on lines it uses to provide service to end users in Virginia, its competitors easily could calculate the number of MediaOne’s customers in the one area in the state where it competes. If MediaOne were to report a large increase in high-capacity lines in Virginia while reporting no increase in the number of such lines in Georgia, competitors might well conclude that MediaOne had made a strategic decision to focus on competing for broadband customers in Richmond rather than Atlanta. In response, Bell Atlantic, the incumbent LEC serving Richmond, might decide to step up its own efforts to deploy broadband facilities while Atlanta’s incumbent LEC, BellSouth, might decide it could afford to delay investments in Atlanta in order to concentrate on competing against MediaOne in Jacksonville, Florida.

Similarly, if a competitive LEC publicly reported a large increase in the proportion of lines owned rather than leased in a specific state, its strategy to rely more heavily on deployment of its own facilities would be advertised to competitors. Incumbents might gain access to some of this information by virtue of their role in providing leased lines to competitors, but the NPRM rules would make the investment decisions of new entrants fully transparent to every carrier in the country. State-specific patterns would be especially helpful to ILECs seeking competitive intelligence on small carriers, because smaller carriers often operate in only a few markets. The information available through the Commission’s proposed survey obviously would be of value in evaluating a new entrant’s priorities and developing a strategy to head off its competitive efforts. Indeed, the proposal to require quarterly disclosure seems likely to make the information

generated by the Commission's broadband reporting rules a roadmap for anticompetitive maneuvering.

Of course, some CLECs have chosen to make public statements about their market penetration levels, the number of high speed data lines they provide, and other information about their progress in winning customers for both conventional and broadband telecommunications services. These types of disclosures, however, do not demonstrate that all new entrants should be required to divulge data that would benefit other carriers, particularly in light of the substantially more accurate and comprehensive picture of the competitive landscape that would be drawn by compelling all communications companies to disclose such information on a uniform basis without appropriate safeguards for confidential or proprietary data.


MediaOne would prefer that any information submitted by CLECs and providers of high-speed data services be aggregated for public disclosure either on a state-by-state or carrier-by-carrier basis, but not broken down to show each carrier's numbers in each state. These limits would serve the goal of monitoring local competition without disclosing sensitive information.

CONCLUSION

For the reasons outlined above, MediaOne requests that the Commission reject the reporting requirements proposed in the NPRM or, at a minimum, limit and modify the requirements to permit carriers to protect competitively-sensitive information.

Respectfully submitted,

MEDIAONE GROUP, INC.



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Susan M. Eid, Vice President, Federal Relations
Tina S. Pyle, Executive Director for Public Policy
Richard A. Karre, Senior Attorney
1919 Pennsylvania Avenue, N.W.
Suite 610
Washington, DC 20006
(202) 261-2000

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I, Jette Ward, hereby certify that on the 3rd day of December, 1999, I caused copies of the foregoing "COMMENTS OF MEDIAONE," to be served by hand delivery or via Internet e-mail(*), on the following:

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Washington, D.C. 20554

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Washington, D.C. 20554

Ms. Terry Conway
Common Carrier Bureau
Industry Analysis Division
Federal Communications Commission
The Portals - 6-A100
445 12th Street, S.W.
Washington, DC 20554

Mr. Andrew Wise
Cable Services Bureau
Policy and Rules Division
Federal Communications Commission
The Portals - 3-A824
445 12th Street, S.W.
Washington, DC 20554

Mr. Jerome Stanshine
Office of Engineering and Technology
Federal Communications Commission
The Portals - 7-B4583-C204
445 12th Street, S.W.
Washington, DC 20554

Mr. Walter Strack
Wireless Telecommunications Bureau
Federal Communications Commission
The Portals -
445 12th Street, S.W.
Washington, DC 20554

Mr. Scott Bergmann
Common Carrier Bureau
Federal Communications Commission
The Portals - 6-A261
445 12th Street, S.W.
Washington, DC 20554

Mr. Lawrence Strickling
Bureau Chief
Common Carrier Bureau
Federal Communications Commission
The Portals - 5C450
445 12th Street, S.W.
Washington, DC 20554

Robert Atkinson
Deputy Bureau Chief
Common Carrier Bureau
Federal Communications Commission
The Portals - 5-C356
445 12th Street, S.W.
Washington, DC 20554

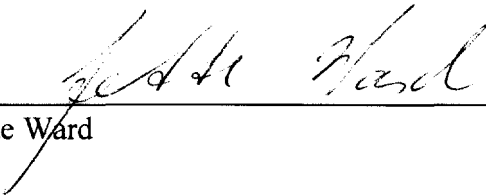
Peyton Wynns
Division Chief
Common Carrier Bureau
Federal Communications Commission
The Portals - 6-A224
445 12th Street, S.W.
Washington, DC 20554

Deborah Lathen
Bureau Chief
Cable Services Bureau
Federal Communications Commission
The Portals - 3-C740
445 12th Street, S.W.
Washington, DC 20554

Judy Boley *
Federal Communications Commission
The Portals - 1-C804
445 12th Street, S.W.
Washington, DC 20554
e-mail: jboley@fcc.gov

Mr. Adonis Hoffman
Cable Services Bureau
Federal Communications Commission
The Portals - 3-C486
445 12th Street, S.W.
Washington, DC 20554

Virginia Huth *
OMB Desk Officer
10236 NEOB
725 17th Street, NW
Washington, DC 20503
e-mail: VHuth@omb.eop.gov



Jette Ward

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